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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,355	04/02/2001	Edward J. Gottsman	38836.00.0044	7180
30498	7590	03/27/2009	EXAMINER	
Vedder Price PC 222 NORTH LASALLE STREET CHICAGO, IL 60601			CORRIELUS, JEAN M	
ART UNIT	PAPER NUMBER			
		2162		
MAIL DATE	DELIVERY MODE			
03/27/2009	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* EDWARD J. GOTTSMAN

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Application No. 09/824,355  
Technology Center 2100

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Mailed: March 26, 2009

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Before KRISTA ZELE *Deputy Chief Appeals Administrator*  
ZELE, *Deputy Chief Appeals Administrator.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 15, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER,  
INCONSISTENCIES WITH THE BRIEF AND/OR  
LAST REJECTION OF RECORD

A review of the file finds inconsistencies between the last rejection of record, and corresponding Grounds of Rejection sections in the Appeal Brief and the examiner's answer as set forth below.

Examiner's Answer

A review of the Examiner's Office communication mailed on July 28, 2008, finds that the status of claims is different or unclear as compared to the last rejection of record and/or as compared to the Brief.

Specifically, the Office communication recites that "claims 1-11 are rejected under 35 U.S.C. 102(e) anticipated by Benson". However, the previous Office actions and Appellant Brief state the claims are rejected under section 102(b). Furthermore, claim 2 was indicated as allowable in the Examiner's Answer mailed 7/2/08.

CONCLUSION

Accordingly, it is ORDERED that the application be returned to the Examiner to:

(1) review the above inconsistencies to determine how to clarify the record;

(i.) vacate the Examiner's Answer mailed on July 28, 2008, and

(ii.) issue a corrected Examiner's Answer to correct Grounds of Rejection and to correct other sections of the Answer as may be required;

(iii.) to include the necessary approval from the TC Director or designee in accordance with MPEP 1207.05, part (B) as may be required for any new grounds of rejection;

(iv.) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/gvw

ACCENTURE  
C/O VEDDER PRICE KAUFMAN & KAMMHOLZ, PC  
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